

REMARKS

By this Amendment, claims 73-108 are pending, in which claims 24, 45, and 47-72 are currently canceled without prejudice or disclaimer. No new matter is introduced.

The Office Action mailed May 29, 2009 objected to claim 47 for an informality and rejected claims 71 and 72 under 35 U.S.C. § 101 as being directed to non-statutory subject matter, rejected claims 71 and 72 under the first paragraph of 35 U.S.C. § 112 as failing to comply with the written description requirement, rejected claims 24, 45, 47-55, 62, 71, and 72 under 35 U.S.C. § 102(b) as being anticipated by *Neubauer et al.* (U.S. 5,953,673), rejected claims 24, 45, 47-52, 54-67, and 69-72 under 35 U.S.C. § 102(b) as being anticipated by *Tognazzini* (E.P. 0810803), rejected claim 53 under 35 U.S.C. § 103(a) as being obvious based on *Tognazzini* in view of *Be Brito* (U.S. 6,529,735), rejected claim 53 under 35 U.S.C. § 103(a) as obvious based on *Tognazzini* in view of *Nojima* (U.S. 5,933,080), and rejected claim 68 under 35 U.S.C. § 103(a) based on *Tognazzini* in view of *Tayloe* (U.S. 5,809,418).

Based on the cancellation of claims 24, 45 and 47-72 without prejudice or disclaimer, the objection to claim 47, as well as the rejections to claims 71 and 72 under 35 U.S.C. § 101 and the first paragraph of 35 U.S.C. § 112 are rendered moot and, therefore, should be withdrawn.

With respect to new claims 73-108, Applicant submits that these claims are free of the applied art.

For instance, independent claims 73, 79, and 85 recite, *inter alia*, “receiving [or receive] a request from a mobile station to connect to one of a plurality of other mobile stations, **wherein the request specifies a location criteria** . . . and . . . selecting [or select] one of the other mobile stations to connect to the mobile station **based on the location criteria** and the determined location information.” Independent claims 91, 97, and 103 recite, *inter alia*, “generating [or

generate] **a request specifying a location criteria** for selection of one of a plurality of mobile stations; and . . . causing [or cause], at least in part, transmission of the request to **a mobile switching center** configured to establish a connection to the one mobile station **based on** location information of the plurality of mobile stations and **the location criteria.**”

By contrast, *Neubauer et al.* unambiguously discloses that if “the subscriber SA of the telephone network PSTN **dials a group call number** and a connection with the service control point SCP exists in the telephone network PSTN, the location of the calling subscriber SA is determined,” (Col. 6, lines 3-5). That is, on “the basis of the subscriber **call number** of the subscriber SA, transmitted together with the dialed **group call number, the service control point SCP** determines the location of said subscriber,” such that the “group call number received is converted into a new group call number, suitable for the mobile radio network PLMN, and this group call number is sent back to the service switching point EX together with information identifying the location of the calling subscriber SA in the telephone network PSTN,” (Col. 6, lines 13-23). As such, the “address message” of *Neubauer et al.* that is transmitted to the mobile switching system by **the service switching point EX** merely includes **the new group call number** and **the information on the location of the calling subscriber SA**. Thus, subscriber SA only requests a connection on the basis of **a group call number**, but nothing more, and the location information in the request for connection to the new group call number only includes location information concerning the **calling subscriber SA**, which is not a location criteria for selection of one of a plurality of mobile stations. Even still, the request for connection to the new group call number is not requested by subscriber SA, **it is requested by service switching point EX.**

Further, *Neubauer et al.* clearly teaches that the mobile switching system merely provides home location register HLR of mobile radio network PLMN with “the information with respect to the calling subscriber SA [or SA’] . . . and the group call number provided for the identification of the target group of the mobile subscribers from which the called mobile target subscriber is selected,” (Col. 8, lines 39-45). The home location register HLR merely “gathers information . . . concerning all the mobile subscribers of the target group and sends this information together with the information identifying the location of the calling subscriber SA or SA’ to the service control point SCP,” (Col. 9, lines 50-55). As such, the applied reference does not teach the exchange of **a location criterion**, much less a request comprising a location criteria.

Also, *Neubauer et al.* particularly discloses that “service control point SCP selects on the basis of the information received [from home location register HLR] the mobile subscriber of the target group best suited with respect to the calling subscriber SA or SA’ as the mobile target subscriber SB,” which may be on the basis of the mobile target subscriber closest to the calling subscriber SA or SA’, (Col. 9, lines 56-62). Accordingly, one of ordinary skill in the art would readily understand that any criteria upon which the “best suited” mobile target subscriber SB is selected **is part of service control point SCP** and, as such, **criteria is not taught as being received or retrieved from any other component of either telephone network PSTN or mobile radio network PLMN**, much less from a request.

At best, *Neubauer et al.* later provides that home location register HLR may provide “algorithms for selection of the best suited mobile subscriber of the target group dialed, the selection being performed according to locational and/or temporal requirements or according to hierarchical or cyclical aspects of the home location register HLR,” (Col. 10, lines 57-63). Thus, and even assuming, *arguendo*, that the algorithms provided by home location register HLR

contain criteria, **this criteria is not included within a received request of either subscriber station SA or SA'**. As previously argued, subscriber stations SA and SA' merely request connections in the form of **dialed group call numbers**.

Meanwhile, *Tognazzini*, on col. 3, lines 36-42, specifically teaches an “apparatus for establishing communications between a calling station and one or more called stations **based on information stored in a database at a called station**, a calling station including an input device for specifying a query against information stored in the database, and a transmitter for sending a communications request including the query.” Thus, the calling station submits the query, over a network, **to all stations** and, thereby, receives back **responses from those stations** at which the information stored in the database satisfies the query,” (Col. 3, line 53 – Col. 4, line 8). As such, the stations do not receive a request to connect to one of a plurality of other mobile stations, but instead receive a request to possibly connect to the receiving station. Further, the receiving stations do not determine location information for each of the other mobile stations.

Still more so, the receiving stations receive the request, not a mobile switching center. To this end, *Tognazzini* discloses that “if a match is found, the station responds with its identification,” such that a “central office detects a response and assigns an empty communications channel in the cellular spectrum to the originator and recipient of the call,” (Col. 11, lines 1-6; *See also* Col. 11, lines 39-41). In this manner, the central office is not configured to establish a connection to the one mobile station based on location information of the plurality of mobile stations and the location information, but instead the central office establishes one or more communication channels between querying stations and responding stations when the central office detects one or more responses from responding stations.

Since the factual determination of lack of novelty under 35 U.S.C. § 102(b) requires the **identical disclosure** in a single reference of **each element** of a claim, such that the **identically disclosed subject matter** is placed into the recognized possession of one having ordinary skill in the art, *Neubauer et al.* and *Tognazzini* fail to anticipate the claimed subject matter. See, e.g., *Praxair, Inc. v. ATMI, Inc.*, 543 F.3d 1308, (Fed. Cir. 2008); *Dayco Prods., Inc. v. Total Containment, Inc.*, 329 F.3d 1358 (Fed. Cir. 2003); *Trintec Indus., Inc. v. Top U.S.A. Corp.*, 295 F.3d 1292, 1296-97 (Fed. Cir. 2002) (noting that **the standard is strict, requiring exact correspondence** between the contents of the applied reference and the claimed elements, such that each and every element recited in the claims is present in the allegedly anticipatory reference); *Crown Operations Int'l, Ltd. v. Solutia Inc.*, 289 F.3d 1367 (Fed. Cir. 2002).

Moreover, the secondary references to *De Brito*, *Nojima*, and *Taylor* do not cure the deficiencies of *Tognazzini* or *Neubauer et al.* The Office Action, on pages 22 and 23, only relies on *De Brito* and *Nojima* for supposedly teaching “an order in which connections to the stations satisfying the location criteria are to be attempted.” *Taylor* is merely relied upon for supposedly teaching, “wherein if the second station does not satisfy the location criteria at the time the connection request is made, the call is made at a subsequent time when the second station satisfies the location criteria,” (Office Action, pages 24-25). Consequently, whether and *Tognazzini*, *Neubauer et al.*, *De Brito*, *Nojima*, and/or *Taylor* are taken alone or in combination, and Applicant does not agree that the requisite motivation has been established to combine the applied references, *Tognazzini*, *Neubauer et al.*, *De Brito*, *Nojima*, and *Taylor* fail to teach, or even suggest, all of the claimed features.

Therefore, the present application, as amended, overcomes the objections and rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9952 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

DITTHAVONG MORI & STEINER, P.C.

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Date

/Phouphanomketh Ditthavong/
Phouphanomketh Ditthavong
Attorney/Agent for Applicant(s)
Reg. No. 44658

918 Prince Street
Alexandria, VA 22314
Tel. (703) 519-9952
Fax (703) 519-9958